

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
(Fort Wayne Division)

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INTERNATIONAL TRUCK AND ENGINE  
CORPORATION and  
INTERNATIONAL TRUCK INTELLECTUAL  
PROPERTY CO., LLC,

Plaintiffs,

v.

CATERPILLAR INC.,

Defendant.

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Case No. 1:03 CV265

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CATERPILLAR INC.,

Counter-Plaintiff,

v.

INTERNATIONAL TRUCK AND ENGINE  
CORPORATION and  
INTERNATIONAL TRUCK INTELLECTUAL  
PROPERTY CO., LLC,

Counter-Defendants

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**JOINT MOTION TO STAY LITIGATION OF THIS CASE PENDING FINAL  
DETERMINATION OF THE REEXAMINATION OF THE PATENT-IN-SUIT**

Plaintiffs International Truck and Engine Corporation and International Truck Intellectual Property Co. ("Plaintiffs") and defendant Caterpillar Inc. ("Caterpillar") respectfully move the Court to stay this litigation pending final determination by the United States Patent and

Trademark Office ("PTO") of the Reexamination of U.S. Patent No. 4,809,177 ("the '177 Patent-in-Suit") in accordance with the attached stipulation of the parties. (**Exhibit A**)


Caterpillar previously moved for a stay in view of its pending Request for Reexamination of the patent and the Court, in view of the fact that the PTO had not yet granted the Request, denied Caterpillar's motion without prejudice to renewal. The PTO subsequently ordered Reexamination on November 23, 2004. The PTO's Order grants reexamination of every claim at issue in the current litigation. To conserve the resources of this Court and those of the parties, the parties now jointly move for a stay pending final resolution of the pending Reexamination proceeding.

Respectfully submitted,



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